



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of)	
)	ORDER NO. D06-198
KAISER FOUNDATION HEALTH)	
PLAN OF THE NORTHWEST,)	CONSENT AND ORDER
)	IMPOSING A FINE
A Foreign Health Care Service)	
Contractor)	

COMES NOW the Insurance Commissioner of the State of Washington, pursuant to the authority set forth in RCW 48.02.080 and RCW 48.05.185, and having reviewed the official records and files of the Office of the Insurance Commissioner, makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. During investigation of a policyholder complaint, the Office of the Insurance Commissioner ("OIC") learned that Kaiser Foundation Health Plan of the Northwest ("KFHPNW" or "The Company") had a policy wherein a physician reviewed claims for Emergency Department visits to determine whether there was a medical necessity for emergency care. If the physician determined there was no medical necessity for emergency care, the claims were denied.
2. RCW 48.43.093(1)(a) requires emergency services to be covered if a prudent layperson acting reasonably would have believed that an emergency medical condition existed, regardless of whether a physician concludes that emergency care is medically necessary.
3. The company revealed that between January 1, 2003 and December 31, 2004, it had denied 290 ER claims based upon this physician review. 183 of these claims (approximately 63%) were overturned on appeal.
4. At OIC's insistence, the company reviewed all of its ER claims denials for this time period. This review identified 46 additional claims which had been erroneously denied. KFHPNW paid each of these 46 additional claims.

CONCLUSIONS OF LAW

1. RCW 48.44.166 authorizes the Insurance Commissioner to impose a fine in lieu of the suspension or revocation of a company's license.

2. KFHPNW's policy of denying ER claims where its physician reviewer concluded there was no medical necessity for emergency care violated RCW 48.43.005(11) and -093(1)(a).

CONSENT TO ORDER

NOW, THEREFORE, Kaiser Foundation Health Plan of the Northwest consents to the following in consideration of The Company's desire to resolve this matter without further administrative or judicial proceedings, and the Insurance Commissioner consents to settle the matter in consideration of The Company's fine on such terms and conditions as are set forth below:

1. KFHPNW consents to the foregoing Findings of Fact and Conclusions of Law as they pertain to these facts, consents to the entry of the Order and waives further administrative or judicial challenge to the OIC's actions related to the subject matter of the Order;
2. Within thirty days of the entry of this Order, KFHPNW agrees to pay to the OIC a fine in the amount of \$65,000 (sixty-five thousand dollars);
3. Failure to pay the fine set forth in paragraph two shall constitute grounds for the revocation of KFHPNW's certificate of authority; and
4. KFHPNW understands and agrees that any future failure to comply with the statutes which are the subject of this Order constitutes grounds for further penalties which may be imposed in direct response to that further violation.

EXECUTED this 29 day of June, 2006.

KAISER FOUNDATION HEALTH PLAN OF THE
NORTHWEST

By: _____

Title: Regional President

ORDER OF THE INSURANCE COMMISSIONER

NOW, THEREFORE, pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

1. Kaiser Foundation Health Plan of the Northwest is ordered to pay a fine in the amount of \$65,000 (sixty-five thousand dollars).
2. \$65,000 (sixty-five thousand dollars) must be paid in full within thirty days of the date of entry of this order. Failure to pay this fine and to adhere to the conditions shall constitute grounds for revocation of KFHP's

Certificate of Authority, and in the recovery of the fine through a civil action brought on behalf of the commissioner by the attorney general.

ENTERED AT TUMWATER, WASHINGTON this 6th day of July, 2006.

Mike Kreidler

Washington State Insurance Commissioner

By: Andrea L. Philhower

Andrea L. Philhower

Staff Attorney, Legal Affairs Division